

806 KAR 10:030. Surplus lines reporting and tax payment structure.

RELATES TO: KRS 304.1-070, 304.10-030, 304.10-040, 304.10-180, 304.99-085

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.10-050, 304.10-170, 304.10-210,

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as established in KRS 304.1-010. KRS 304.10-050 requires a surplus lines broker to file an affidavit setting forth facts from which it can be determined if the insurance was eligible for export under KRS 304.10-040. KRS 304.10-170 requires the commissioner to establish the form of the verified statement of all surplus lines transactions for a preceding calendar quarter. KRS 304.10-210 requires the commissioner to promulgate administrative regulations to effectuate the Surplus Lines Law. This administrative regulation establishes the reporting procedures to be used by surplus lines brokers for the reporting and payment of surplus lines tax pursuant to KRS 304.10-170 and 304.10-180.

Section 1. Affidavit Reporting.

(1) A licensed surplus broker shall file electronically a Kentucky Surplus Lines Affidavit of Insurance Transactions with the department within fifteen (15) days after the invoice date or effective date of each premium bearing surplus lines transaction, whichever occurs later.

(2) The affidavit shall be filed electronically through the Department of Insurance's secure Web site at <https://insurance.ky.gov/doieservices/UserRole.aspx>.

Section 2. Quarterly Reporting and Payment of Surplus Lines Premium Taxes for Insurance Transactions.

(1) The department shall generate a quarterly report of all surplus lines transactions reported in a preceding calendar quarter, for each surplus lines broker based on the affidavits filed in accordance with Section 1 of this administrative regulation.

(2) The department shall make the quarterly report available to a licensed surplus lines broker on its secure Web site at <https://insurance.ky.gov/doieservices/UserRole.aspx>.

(3) Each licensed surplus lines broker shall:

(a) Reconcile the surplus lines taxes owed on the quarterly report with the broker's own records;

(b) Notify the department of any discrepancy in surplus lines taxes owed; and

(c) Pay all surplus lines premium tax and any applicable penalties owed pursuant to KRS 304.99-085 within thirty (30) days of the end of the calendar quarter.

(4) Surplus lines premium tax shall be:

(a) Computed at the rate of three (3) percent on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as shown on the quarterly report;

(b) Payable to the Kentucky State Treasurer; and

(c) Remitted to the Kentucky Department of Insurance electronically through the department's secure Web site at <https://insurance.ky.gov/doieservices/UserRole.aspx>.

(5) Agencies paying a surplus lines premium tax on behalf of a broker shall submit payment electronically through the broker's Eservices account using the department's secure Web site at <https://insurance.ky.gov/doieservices/UserRole.aspx>.

(6) The department shall consider the payment of the surplus lines premium tax and any applicable penalty to be the submission of the broker's quarterly report and verified statement of transactions.

Section 3. Effective Date. This administrative regulation shall be effective beginning with the calendar quarter beginning July 1, 2021.

Section 4. Incorporation by Reference. (1) "Kentucky Surplus Lines Affidavit of Insurance Transaction", May 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the department's secure Web site at <https://insurance.ky.gov/doieservices/UserRole.aspx>. (29 Ky.R. 1440; Am. 1796; eff. 1-16-2003; TAm eff. 8-9-2007; 36 Ky.R. 471; 795; eff. 11-6-2009; 45 Ky.R. 1824, 2716, 3411; eff. 7-5-2019; 47 Ky.R. 1077, 1565; eff. 5-4-2021.)